

1 TROY A. STEWART, SBN 135764
2 P.O. Box 390
3 Glendale, California 91209-0390
4 Telephone: (626) 616-9474
5 Email: stewart1985@lawnnet.ucla.edu

6 Attorney for Debtor and Defendant
7 PETER EMANUEL KVASSAY

FILED & ENTERED

APR 12 2013

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY huerta DEPUTY CLERK

7 UNITED STATES BANKRUPTCY COURT ~~CHANGES MADE BY COURT~~
8 CENTRAL DISTRICT OF CALIFORNIA

9 In re) Case No.: 2:12-bk-40267-PC
10)
11 PETER EMANUEL KVASSAY,) Chapter 7
12)
13 Debtor.) Adversary No. 12-02577-PC
14)
15 ROBERT KVASSAY, INDIVIDUALLY, AND) ORDER PARTIALLY GRANTING AND
16 THE KVASSAY FAMILY TRUST DATED) PARTIALLY DENYING DEFENDANT'S
17 FEBRUARY 26, 1993.) MOTION TO DISMISS
18 Plaintiff,)
19 vs.) DATE: April 2, 2013
20 PETER EMANUEL KVASSAY, AN) TIME: 9:30 a.m.
21 INDIVIDUAL,) PLACE: United States Bankruptcy Court
22) Edward R. Roybal Federal Bldg.,
Defendant.) 255 E. Temple St., Courtroom 1468
23) Los Angeles, CA 90012
24)
25)
26)
27)
28)

Defendant PETER E. KVASSAY'S motion pursuant to FRBP 7012 and FRCP 12(b)(6) for an
order dismissing the claims alleged in the first amended complaint filed by plaintiffs ROBERT
KVASSAY and THE KVASSAY FAMILY TRUST DATED FEBRUARY 26, 1993, for
nondischargeability of a debt pursuant to 11 U.S.C. § 523(a)(4) (for fraud or defalcation while acting

1 in a fiduciary capacity) and 11 U.S.C. § 523(a)(6), came on for hearing on regular notice on the
2 above-captioned date and at the above-captioned time and place before the Honorable Peter H.
3 Carroll, United States Bankruptcy Judge (the “motion”). Troy A. Stewart appeared personally on
4 behalf of defendant and Richard R. Clements appeared telephonically on behalf of plaintiffs.
5
6

7 The Court considered the papers and pleadings filed in support of and opposition to the
8 motion *and* the oral argument of counsel for defendant and plaintiffs, *and* based thereon,
9
10

11 ***IT IS ORDERED*** that:

- 12
13 1. Plaintiffs’ claim for nondischargeability of a debt pursuant to 11 U.S.C. § 523(a)(4)
14 (for fraud or defalcation while acting in a fiduciary capacity) is dismissed with
15 prejudice;
16
17
18
19 2. Defendant’s motion to dismiss plaintiffs’ claim for nondischargeability of a debt
20 pursuant to 11 U.S.C. § 523(a)(6) is denied; and
21
22
23
24
25
26
27
28

3. Defendant's answer to plaintiffs' claims for nondischargeability of a debt pursuant to
11 U.S.C. § 523(a)(4) (larceny) and 11 U.S.C. § 523(a)(6) as alleged in plaintiffs' first
amended complaint is to be filed and served by April 22, 2013.

###

Date: April 12, 2013

A handwritten signature in black ink, appearing to read "Peter H. Carroll". The signature is fluid and cursive, with a large, stylized initial 'P'.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 313 East Broadway, P.O. Box 390, Glendale, California 91209-0390

A true and correct copy of the foregoing document entitled (*specify*):

ORDER PARTIALLY GRANTING AND PARTIALLY DENYING DEFENDANT'S MOTION TO DISMISS

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

2. SERVED BY UNITED STATES MAIL:

On (date) April 11, 2013, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

See Attached Service List

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL

(state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) April 11, 2013, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

See Attached Service List

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

April 11, 2013

Troy A. Stewart

/s/ Troy A. Stewart

Date

Printed Name

Signature

F 9013-3.1.PROOF.SERVICE

1 **2. Served by United States Mail:**

2 Office of the United States Trustee
3 725 South Figueroa Street
4 Suite 2600
5 Los Angeles, California 90017

6 Richard R. Clements
7 Law Offices of Richard R. Clements
8 1154 East Wardlow Road
9 Long Beach, California 90807

10 **3. Served by Personal Delivery:**

11 Judge Peter H. Carroll
12 Edward R. Roybal Building and Courthouse
13 255 Temple Street
14 Bin outside Suite 1460
15 Los Angeles, California 90012

16
17
18
19
20
21
22
23
24
25
26
27 **Attachment to F 9013-3.1 (Service List to Proof of Service of Order Partially Granting and Partially Denying
28 Defendant's Motion to Dismiss)**

NOTICE OF ENTERED ORDER AND SERVICE LIST

4 Notice is given by the court that a judgment or order entitled (specify):

ORDER PARTIALLY GRANTING AND PARTIALLY DENYING DEFENDANT'S MOTION TO DISMISS

7 was entered on the date indicated as Entered on the first page of this judgment or order and will be served in
the manner stated below:

8 **1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)** Pursuant to controlling General
9 Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and
10 hyperlink to the judgment or order. As of (date) April 11, 2013, the following persons are currently on the
 Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the
 email addresses stated below.

11 | See Attached Service List

Service information continued on attached page

13 **2. SERVED BY THE COURT VIA UNITED STATES MAIL:** A copy of this notice and a true copy of this
judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or
entities at the addresses indicated below:

See Attached Service List

Service information continued on attached page

17 **3. TO BE SERVED BY THE LODGING PARTY:** Within 72 hours after receipt of a copy of this judgment or
18 order which bears an Entered stamp, the party lodging the judgment or order will serve a complete copy
 bearing an Entered stamp by United States mail, overnight mail, facsimile transmission or email and file a
 proof of service of the entered order on the following persons and/or entities at the addresses, facsimile
 transmission numbers, and/or email addresses stated below:

Service information continued on attached page

1. **Served by the Court via Notice of Electronic Filing (NEF):**

2. • United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
3. • Richard R Clements rclements1@verizon.net

4. **Served by the Court via United States Mail:**

5. Debtor/Defendant's Counsel
Troy A. Stewart
6. P.O. Box 390
Glendale, California 91209-0390
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.
21.
22.
23.
24.
25.
26.
27.
28.

Attachment to F 9021-1.1 (Notice of Entered Order and Service List)